

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

**United States of America**

v.

**Civil No. 08-cv-499-SM**

**David M. Hulick**  
**Caroline P. Hulick**

**NOTICE OF RULING / ORDER**

Re: Document No. 120, Motion for Entry of Order Determining US  
Objection to Order of Magistrate Judge and Vacating Attorney's  
Fees Order Issued by Magistrate Judge

Ruling:       Granted.     The United States' objection to the  
Magistrate Judge's order dated May 30, 2012 (Dkt. No. 98) is  
sustained, and that order is vacated.   Having carefully reviewed the  
pleadings and the docket, it appears to me that in large part the  
imposed sanctions followed inevitably from a mistake made by me in  
granting the joint assented to motion to continue and extend  
deadlines (Dkt. No. 76) and mooted the motion to continue and extend  
deadlines (Dkt. No. 71) when, upon reflection, I intended the  
reverse.   The Magistrate Judge correctly concluded that the court  
considered the discovery deadline extended to allow the depositions  
of IRS employees before trial.   But, I cannot say it was unreasonable  
for the United States to have viewed the circumstances differently

given the actual rulings entered on the docket. While good practice consistent with the collegiality expected in this district should have resulted in an agreement with respect to those depositions, particularly given the government's apparent agreement in principle to produce the witnesses for deposition, still, the government could have plausibly construed my earlier rulings as justifying a refusal to do so absent an order compelling that result, or an order reopening and extending the discovery period for that purpose, particularly in light of the court's known reluctance to enforce private discovery agreements that are inconsistent with outstanding case management orders.

So ordered.

August 8, 2012

/s/ Steven J. McAuliffe  
United State District Court

cc: Counsel of Record